

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IT GROUP INC., et al.,)	Chapter 11
)	
Debtor.)	Case No. 02-10118
)	Jointly Administered
<hr/> IT LITIGATION TRUST,)	
)	
Plaintiff,)	
)	
v.)	
)	
DANIEL A. D'ANIELLO, FRANCIS J.)	
HARVEY, JAMES C. MCGILL, RICHARD)	Civil Action No. 04-1268-KAJ
W. POGUE, PHILIP B. DOLAN, E. MARTIN)	
GIBSON, ROBERT F. PUGLIESE,)	
CHARLES W. SCHMIDT, JAMES DAVID)	
WATKINS, ANTHONY J. DELUCA, HARRY)	
J. SOOSE, THE CARLYLE GROUP, THE)	
CARLYLE GROUP L.L.C., CARLYLE)	
PARTNERS II, L.P., CARLYLE SBC)	
PARTNERS, II, L.P., CARLYLE)	
INTERNATIONAL PARTNERS II, L.P.,)	
CARLYLE INTERNATIONAL PARTNERS)	
III, L.P., C/S INTERNATIONAL)	
PARTNERS, CARLYLE INVESTMENT)	
GROUP, L.P. CARLYLE-IT)	
INTERNATIONAL PARTNERS, L.P.,)	
CARLYLE-IT INTERNATIONAL)	
PARTNERS II, L.P., CARLYLE-IT)	
PARTNERS L.P., and T.C. GROUP, L.L.C.,)	
)	
Defendants.		

ORDER

For the reasons set forth in the Memorandum Opinion issued in this matter today,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction (Docket Item ["D.I."] 35) is DENIED.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss for Failure to State a Claim (D.I. 37) is GRANTED as to:

- (1) Counts I, II, III, IV, and V to the extent that these Counts allege breaches of the duty of care, waste of corporate assets for actions in violation of the duty of care, and aiding and abetting violations of the duty of care;
- (2) Counts I, II, III, IV, and V to the extent that these Counts allege breaches of the duty of loyalty, waste of corporate assets, and aiding and abetting violations of the duty of loyalty based on the payments to individual defendants listed in Count VI;
- (3) Counts I, II, and III to the extent that they are brought against Defendant Soose;
- (4) Count VII to the extent that payments made prior to January 16, 2001 are sought to be recovered under 11 U.S.C. § 548.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss for Failure to State a Claim (D.I. 37) is DENIED in all other respects.


UNITED STATES DISTRICT JUDGE

November 15, 2005
Wilmington, Delaware